

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MANUEL BAUDER EADDY,

Petitioner,

v.

CIVIL CASE NO. 05-40398
CRIMINAL CASE NO. 94-50015-01

UNITED STATES OF AMERICA,

Respondent.

HONORABLE PAUL V. GADOLA
U.S. DISTRICT COURT

ORDER DENYING PETITIONER'S MOTION

Before the Court is Petitioner's "Motion Denying Consent to Exercise of Jurisdiction by a United States Magistrate Judge," filed on January 30, 2006. On January 17, 2006, the Court referred Petitioner's motion to vacate sentence under 28 U.S.C. § 2255 to United States Magistrate Judge Wallace Capel, Jr. for a Report and Recommendation pursuant to 28 U.S.C. § 636 (b)(1)(B). In his motion, Petitioner informs the Court that, in accordance with the provisions of 28 U.S.C. § 636(c), he does not consent to the Magistrate Judge conducting any further proceedings in this matter.

Petitioner is mistaken, however, because the referral of his motion to vacate sentence to the Magistrate Judge for a report and recommendation does not require his consent. *See* 28 U.S.C. § 636(b)(1)(B). The section upon which Petitioner relies, which does require the consent of the parties, concerns proceedings in a jury or nonjury civil matter. *See* 28 U.S.C. § 636(c). Section 636(b)(1)(B) provides for the referral to a Magistrate Judge for a report and recommendation on, *inter alia*, "applications for posttrial relief made by individuals convicted of criminal offenses and prisoner petitions challenging conditions of confinement," and consent is not required. 28 U.S.C. § 636(b)(1)(B) (footnote omitted).

ACCORDINGLY, IT IS HEREBY ORDERED that Petitioner's motion [docket entry 1085] is **DENIED**.

SO ORDERED.

Dated: February 23, 2006

s/Paul V. Gadola

HONORABLE PAUL V. GADOLA
UNITED STATES DISTRICT JUDGE

Certificate of Service

I hereby certify that on February 23, 2006, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to the following:

Mark C. Jones, and I
hereby certify that I have mailed by United States Postal Service the paper to the following non-ECF participants: Manuel Eaddy.

s/Ruth A. Brissaud

Ruth A. Brissaud, Case Manager
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